

KEVIN R. STOLWORTHY, ESQ.
Nevada Bar No. 2798
ARMSTRONG TEASDALE LLP
3770 Howard Hughes Parkway, Suite 200
Las Vegas, Nevada 89169
Telephone: 702.678.5070
Facsimile: 702.878.9995
kstolworthy@atllp.com

Court Appointed Counsel for Defendant Benjamin Cottman

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA

Plaintiff,

vs.

BENJAMIN COTTMAN,

Defendant.

Case No.: 2:18-cr-00129-JCM-DJA

**STIPULATION TO VACATE AND
CONTINUE SENTENCING HEARING
AS TO BENJAMIN COTTMAN**

[SIXTH REQUEST]

The United States of America, by and through its counsel, and Defendant Benjamin Cottman, by and through his court-appointed counsel, Kevin R. Stolworthy, Esq., hereby respectfully submit the following Stipulation and Proposed Order for this Court's consideration and approval.

It is hereby stipulated and agreed, by and between the undersigned parties, that the sentencing hearing for Defendant Benjamin Cottman presently scheduled for October 15, 2021, at 10:30 a.m. (ECF No. 189), be vacated and continued to date and time convenient for this Court that is not less than 60 days from the current sentencing date.

The parties further stipulate that the requested continuance is warranted for following reasons:

1. On January 15, 2021, Defendant Cottman's filed a Motion for Determination of Mental Competency Pursuant to 18 U.S.C. 4241(a) ("Competency Determination Motion"). (ECF No. 163.) Due to the pending Competency Determination Motion, this Court continued Defendant Cottman's sentencing hearing to April 30, 2021, at 10:30 a.m. (ECF No. 165.)

1 2. On January 27, 2021, the Court granted the Competency Determination Motion,
2 ordering that Defendant Cottman's counsel designate a local doctor to conduct the evaluation. (ECF
3 No. 174.) A status check hearing was scheduled for March 12, 2021, at 1:00 p.m. (Id.)

4 3. Dr. Sunshine Collins was retained and approved by the Court to conduct the
5 evaluation of Defendant Cottman. Dr. Collins evaluated Defendant Cottman on February 19, 2021,
6 provided defense counsel with her Competency Evaluation Report on February 23, 2021, which was
7 filed under seal with the Court on February 26, 2021. (ECF No. 176.)

8 4. On March 12, 2021, the Court held a status conference regarding the Competency
9 Evaluation Report. After hearing arguments, the Court ordered that Defendant Cottman be given a
10 second evaluation to be performed by a medical health professional at a Bureau of Prisons medical
11 center or a Bureau of Prisons facility that has a medical center, and that a report be prepared and
12 filed under seal. (ECF Nos. 180, 181.) At that time, the Court also suggested that the parties seek a
13 continuance of the current sentencing date to accommodate the second evaluation, preparation of a
14 report, and any additional hearings.

15 5. A status check hearing before this Court was held on May 27, 2021. At that time, the
16 Court allowed the clinical psychologist from the Bureau of Prisons up to and including July 7, 2021,
17 to evaluate Defendant Cottman and submit a report. (ECF No. 186.) The Court also provided the
18 Government until July 23, 2021, to file a supplemental response; and the defense up to August 6,
19 2021, to file a supplemental reply. (Id.)

20 6. The parties subsequently agreed to continue the competency hearing and extend the
21 related briefing deadlines, which the Court approved on July 29, 2021, setting the competency
22 hearing for September 15, 2021. (ECF No. 191.)

23 7. The competency hearing was held on September 15, 2021, at 10:00 a.m.; however,
24 due to Defendant Cottman's refusal to participate, the Court continued the competency hearing to
25 October 13, 2021, at 1:00 p.m., to allow defense counsel an opportunity to contact Defendant
26 Cottman and confirm whether he wants to participate in the competency hearing. (ECF No. 201.)

27 8. As such, the parties now move this Court to continue the sentencing hearing at least
28 60 days to allow the Court sufficient time to conduct the competency hearing and make a

determination on Defendant Cottman's competency to be sentenced.

9. The parties submit that another continuance will not seriously harm the interests of justice.

10. Defendant Cottman is presently in custody and agrees to the proposed continuance.

11. This is the sixth request of the parties for a continuance of the sentencing hearing.

WHEREFORE, the parties respectfully request that this Court accept this Stipulation and enter and Order vacating the sentencing hearing on October 15, 2021, at 10:30 a.m., and continuing the sentencing hearing to a date and time convenient to the Court but not less than 60 days from its current setting. The parties attach a Proposed Order for this Court's consideration.

Dated this 16th day of September, 2021.

Dated this 16th day of September, 2021.

By: /s/ Allison Reese
ALLISON REESE, ESQ.
Assistant United States Attorney
Counsel for the United States of America

By: /s/ Kevin R. Stolworthy
KEVIN R. STOLWORTHY, ESQ.
Nevada Bar No. 2798
ARMSTRONG TEASDALE LLP
3770 Howard Hughes Parkway, Suite 200
Las Vegas, Nevada 89169

*Court-appointed Counsel for Defendant
Benjamin Cottman*

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DISTRICT OF NEVADA

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Plaintiff,

vs.

BENJAMIN COTTMAN,

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Case No.: 2:18-cr-00129-JCM-DJA

**ORDER GRANTING STIPULATION
TO VACATE AND CONTINUE
SENTENCING HEARING AS TO
DEFENDANT BENJAMIN COTTMAN**

This matter coming on the parties' Stipulation to Continue Sentencing Hearing as to Defendant Benjamin Cottman (Sixth Request), the Court having considered the premises therein, and good cause showing, the Court accepts the Stipulation of the parties and finds as follows:

1. The parties agree to the sixth request for continuance of the sentencing hearing;
2. Defendant Cottman is in custody and does not object to the continuance;
3. Another continuance will not seriously harm the interests of justice;
4. The Court finds good cause to continue the sentencing hearing based on the reasons articulated in the parties' Stipulation, including that the current sentencing hearing date of October 15, 2021, offers inadequate time for the Court to hold the competency hearing (currently scheduled for October 13, 2021) and decide the issue of Defendant Cottman's competency to be sentenced.

Accordingly, pursuant to the Stipulation, this Court will continue the sentencing hearing for no less than 60 days from its current setting.

IT IS THEREFORE ORDERED:

1. The Sentencing Hearing for Defendant Benjamin Cottman set for October 15, 2021, at 10:30 a.m., is **VACATED** and **CONTINUED**;

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James C. Mahan
JAMES C. MAHAN
UNITED STATES DISTRICT JUDGE
DATE: September 17, 2021